M.R.O. 1—33,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 2075 Press ~~His.~~

381-382

Dated 17 July ~~19~~ 1863

Not to be folded or roughly handled

No. 381. Read the following Proceedings of the Board of Revenue, dated 28th May 1869, No. 3,812:—

Read the following letter from the Commissioner of the Neilgherry Hills, to the Acting Secretary to the Board of Revenue, dated Ootacamund, 3rd May 1869, No. 56.

In reply to Proceedings of the Board of the 19th April 1869, No. 2,654, I have the honour to report that I have informed Mrs. Rae that I am ready to make over to her, in its entirety, the land which Government have given her, in extension of the original grant to her late husband, in full acquittance of all claims on Government in connection with her husband's engagements.

2. In accordance with Government Order, No. 144, of 15th January 1867, I forward a Draft Deed for this fresh grant drawn up in the same terms as the Title-deed of the original grant, with the addition of a clause to the effect that this last grant is in full acquittance of all claims upon Government, and with some alteration scored in red ink to meet the special circumstances of this second grant, which contains no rocky and uncultivable land that could fairly claim remission of assessment.

3. The assessment to be charged upon the property.

Nothing will be due on the fresh grant until the 30th June 1877, when Rupees 251-1-0 will have to be paid, and a similar sum will be due annually from that time henceforward.

4. The original grant was 240 acres rent free for seven years, after which one Rupee per acre was to be charged on every acre "cultivable and not rocky." The original grant was made in 1860; as early as 1862, Mr. Rae brought to the notice of the Collector of Coimbatore that 90 out of the 240 acres were stony and uncultivable. In Government Order of 5th February 1863, No. 245, Government offered him adjoining land in lieu of the portion alleged by him to be unfit for cultivation. From that time to his death in 1866, he seems to have been in correspondence with the Collector about these 90 acres.

5. In a letter, dated September 1866, Mr. Grant stated that 30 acres might be said to be rocky and uncultivable, and further on in the same letter he made use of the words "allowing 70 acres to be unfit for cultivation." I have seen the land, and in parts it is difficult to say where it begins to be so rocky and stony as to be uncultivable. Some would draw the line here, some there, and the uncultivable area would increase and diminish accordingly.

6. Considering that Mr. Rae is dead, and that the Government, in their Order of 15th January 1867, No. 144, expressed themselves satisfied that he fairly carried out the experiment of growing Tea upon grass land as far as his means permitted, I submit that it would be well that the full 90 acres should be deducted from the 240 (the original grant), leaving 150 acres on which, according to the Deed, Rupees 150 were payable on the 30th June last.

Enclosure No. 1.—Draft Deed.

The Draft Deed will be submitted to Government with reference to Government Order, 15th January 1867, No. 144. The words "on Government," or

something equivalent to them, should be added after "claims" in the new provision entered towards the end of the Deed.

2. The Board support the Collector's proposal that Government should give up their claim to 90 acres of the old grant, as rocky and uncultivable.

No. 382. ORDER THEREON, 17th July 1869, No. 2,075.

Miscellaneous.

THE Government consider that the Commissioner himself is best able to judge of the proportion of the late Mr. Rae's estate, which is entitled, under the terms of the Indenture, to exemption from assessment. They therefore resolve to leave the decision of this question entirely in his hands.

2. The form of Indenture relative to the additional grant, together with the papers connected therewith, will be forwarded to the Acting Government Solicitor, who will be requested to give his opinion as to its efficacy, more especially with reference to the clause which the Commissioner has inserted at the end, and which is designed to secure the non-liability of Government for any claim which Mr. Rae's representatives may prefer in connection with the present case.

(True Extract.)

(Signed) R. A. DALYELL,
Acting Secretary to Government.

To the Board of Revenue.
„ the Commissioner of the Neilgherries.
„ the Government Solicitor.

Exd. F. R. Bauthman.

Govt. of India (1869) Mutiny.

REVENUE.

To

THE BOARD OF REVENUE,

&c., &c., &c.

Dated July, 17th

Recd.

G. O., 17th July 1869, No. 2,052.

Transmitting Petition
Encl 292

JULY.

Nos. 381-382.

Land to be made over to Mrs. Roe on the Neilgherries.—Papers relating to it forwarded to Acting Government Solicitor for report on its efficacy. Commissioner to decide with reference to the assessment on the late Mr. Rae's estate.

Revenue Department

Proceedings of the Madras Govt. under date the

Read the following Proc: of the Bd of Revenue

Submitting draft of a Title Deed for land on the Neilgherries to be made over to Mrs. Rae, in acquittance of all claims with reference to her late husband's engagements with Govt in connection with his tea plantation, and recommending that Govt should waive their claim to that portion of land originally granted to Mr. Rae which has been found to be rocky & uncultivable.

(R. L. 28th May 1869, No. 3,812)

With reference to the question raised in para 4 of the Commissioner's letter, the Govt observe that in the absence of a survey or's opinion, considering the favorable conditions on which Mr. Rae obtained his original grant and the precise terms in which the indenture was worded, they do

do not feel called upon to sanction the exemption from assessment of more than twenty acres. This was the extent of land which the Collector in his letter to the Board dated 29th January 1866, No. 26 declared after personal inspection to be "unfit for cultivation". The Govt are further of opinion that this question is one which the Commissioner might have disposed of himself after communication with the Survey Department.

2. The form of Endorsement relating to the additional grant together with the papers connected therewith, will be forwarded to the Acting Govt Solicitor who will be requested to give his opinion as to its efficacy more especially with reference to the clause which the Commissioner has inserted at the end, and which is designed to secure the non-liability of Govt for any claim which Mr.

has estimated 20 acres to be uncultivable waste as the latter was unable after personal inspection of the estate.

The Govt however does not feel called upon to sanction the exemption from assessment of more than twenty acres. This was the extent of land which the Collector in his letter to the Board dated 29th January 1866, No. 26 declared after personal inspection to be "unfit for cultivation". The Govt are further of opinion that this question is one which the Commissioner might have disposed of himself after communication with the Survey Department.

2. The form of Endorsement relating to the additional grant together with the papers connected therewith, will be forwarded to the Acting Govt Solicitor who will be requested to give his opinion as to its efficacy more especially with reference to the clause which the Commissioner has inserted at the end, and which is designed to secure the non-liability of Govt for any claim which Mr.

Yes - Copy 30 [illegible]

I would move [illegible] refer the Commissioner's [illegible]

Mr. Rae's representations may prefer in connection with the present case.

[illegible]

I don't agree. I should give no go. to any compensation in this judgment the remaining cultivable [illegible] Should [illegible] good deal left is poor. I would ask him to [illegible] about a few acres. Who can [illegible] whether it is cultivable or not. A surveyor would cost more than the thing is worth.

[illegible] the matter as he likes

[illegible]

Revenue Department

Memorandum regarding grant of land for sea cultivation to be made to Mrs Rae, widow and administratrix to the estate of the late N. D. Rae and also regarding grant already made to her late husband.

1. By an order dated 21st September 1860 No 1685 the Government granted to Mrs Rae, on application of the Bombay Survey, 200 acres of grass land and 40 acres of forest land at Sholoor, 2 miles from Kolacamund on the Neilgherries. As the cultivation of the tea plant at such an elevation, was at that time an experiment,

Chs.

23 Sheets Q. B. 6 Jus

the Government granted the land in question on favorable terms. Mr. Rae was to pay no assessment for the first seven years, during which period he had entirely to devote the land to the cultivation of tea. After the expiration of that period he was to pay an assessment of one rupee per acre, except for such portions as were "absolutely uncultivable: i.e. rocks". The land was granted on a permanent title, and after the lapse of ten years the condition

as to the cultivation of tea ceased to operate. The terms were laid down in an instrument, after which the land was now before Government is stated by the Commissioner to be modified. The Government also mentioned their willingness to enlarge Mr. Rae's holding at some future period should he desire it.

2 In 1864 Mr. Rae applied for a further grant of land in the neighbourhood of his plantations. The Government in an order dated 15th June 1864 No 1033 ordered the Collector of Coimbatore to deliver

2 and

200 acres of grass and
20 acres of forest land
which were to be marked
off and reserved till
further orders. As
to this line-however,
these 240 acres have not
been assumed or brought
under cultivation.

3. Mr Rae died
in 1866. Thereupon
his widow applied for
the immediate grant
to herself & children
of the promised exten-
sion of land. In an
order dated January
15th 1867 No 114, the
Government assented
to handing over 200 acres
of grass and 20 acres of
Shola land reserved
under the instructions
conveyed

conveyed in G. O. 15th June 1864

to Mr Rae's represen-
tatives in full acquittance
of all claims upon them in
connection with Mr Rae's
engagements. The Govern-
ment further stated "that
"Mr Rae's representatives
"would not be charged assess-
"ment for any part of the
"original grant or the exten-
"sion now sanctioned which
"may be absolutely uncultiv-
"vable, i.e. rocks." For the
rest, the rate of one rupee per
acre was fixed. It may be
reasonably inferred from
the tenor of this order that

the

the Government intended the extension to be granted on the same terms as the original allotment of lands. In a G. O. dated April 10th 1869 No. 988 the Government settled the precise amount of land to be allotted to Mr. Rae, and ordered that the assessment therein should be at once determined.

4. The Commissioner of the Nilgherries replied to this order in a letter dated May 3d. 1869. which is now immediately before Govt. With reference to the fresh grant of land, he states that the whole is cultivable and

and that the whole will therefore be taxed at the rate of one rupee per acre Rs. 251-1-9 will be due from it on June 30th. 1877. He submits a draft of the indenture to be entered into between the Government on one side and Mr. Rae on the other. He states that it is drawn up in the same terms as the Title Deed of the original grant "with the addition "of a clause that this last "grant is in acquittance "of all claims upon Govt. "and with same alteration

scored

scored in red ink to meet
the special circumstances
of this ~~special~~ grant; which
contains no rocky and
uncultivable land that
could fairly claim remission."

5 Whether this form
of Indenture is satisfactory
or not is one of the questions
before Government. On a
careful perusal of it, no
alterations suggest themselves
selves with the exception
of the addition proposed by
the Board of the words
"or Government" in one
place. As however the in-
denture is couched in
legal phraseology, it
might

Next in the paper
Could for adoption
should be adopted
Nov 1901

might be advisable to sub-
mit it to the revision of
the Government Solicitor,
especially with reference
to the clause which the
Commissioner has inserted
at the end. ....

6. Another question
with reference to the old
grant is raised by the Com-
missioners letter. As has
been stated, there is no
uncultivable land in the
fresh grant. But of the
old grant (240 acres) an
extent which varies in
different accounts from
20 to 150 acres is stated to
be unfit for cultivation,
and

and although the question of the amount of land to be exempted has not yet been settled, the Government bound themselves by the terms of the original grant not to exact assessment from uncultivable portions of the land.

The second question therefore before Government relates to the amount of land to be exempted from taxation. The Commissioner and the Board advocate 90 acres "because Mr Rae "fairly carried out the ex- "periment of growing bear "upon grass land as far as "his means permitted." But this appears to be too much and would amount to a gratuitous relinquishment of right on the part of Govt. for the following reasons.

(1) The speculative nature of the growth of bea was taken into consider- ation when Mr Rae first received the grant of land. Very liberal terms were allowed him, for the land was not put up at auction as it would have been under the waste land rules, and he did not pay any assessment during the first seven years. The question therefore of the amount of land which is an "absolutely uncultivable" is one that must be decided on its merits without refer- ence to "status quo ante." Moreover bea cultivation is no longer an experiment it is a proved success: & Mr Rae would not have applied for an extension of land.

That

12/ That the number of acres recommended for exemption is excessive, is shown by the fact that Mr. Rae himself who was a most strenuous asserter of his rights only named 90 acres as unfit for cultivation (Vide Collectors letter in Proceeding of Government dated January 15th 1867) — The Collector himself (Vide Proceedings of Government dated March 23d 1866) named only 20 acres. And, as the Collector has already pointed out, why should Mr. Rae have specially picked out for tea cultivation an estate of 240 acres of which 90 were "absolutely uncultivable."

8. It is therefore suggested that only 30 acres should be exempted from taxation. Even this would be an indulgence taking the Collector's

I would say more & avoid a comment + assertion. N.

Collectors opinion as a guide, the Commissioner having given no definite opinion.

9. The questions before Government are.

(1) Whether the form of indenture submitted herewith (for the fresh grant of land) is satisfactory.

(2) What amount of the old grant is to be exempted from taxation.

As regards the first point it will be better to call the A. G.'s attention to the latter clause of the indenture as suggested by the Commr. & added to in our proceedings by the R. Board, in order that he may advise what he will consider the Govt. fully secures Govt. against further claims by the representatives of Rae.

As regards the extent of land on which exemption should be demanded:- I would limit the area specified by the Collector viz 20 acres. It is the highest degree unlikely that Rae would have selected a block of 200 acres of as many as 90 acres not suitable to tea cultivation. If there were any other land they is a subject of so much a revenue nature that it ought to have been decided out of hand by the Commr. the man usually best able to form an opinion. Even had he been of opinion that 20 acres only were sufficient exemption I would have recommended 30 acres

See above! I would limit the area to 20. I would give the Collector power. It does not matter to Govt. how much the native gets. N.

Revenue Depart.

A:2076

Proceedings of the Madras Govt. made, date the 17th July 69

Read the fol. -lowing Pro: of the Bd. of Revenue -

Submitting, with recommendation draft of title deed for land on the Neilgherries to be made over to Mrs. Rae in acquittance of all claims with reference to her late husband's engagements with Govt. in connection with his tea plantation.

(H. L. 28th May 1869 No. 3812/-

The Govt. considers that the Commissioner himself is best able to judge of the proportion of the late Mr. Rae's estate, which is entitled under the terms of the indenture to exemption from assessment - They therefore resolve to leave the decision of this question entirely

entirely in his hands.

2. The form of Indenture relative to the additional grant together with the papers connected therewith will be forwarded to the acting Govt. Solicitor who will be requested to give his opinion as to its efficacy more especially with reference to the clause which the Commissioners have inserted at the end, and which is designed to secure the non-liability of Govt. for any claim which the Rajah Representatives may prefer in connection with the present case.

5-2-62
29-8-62
15-1-63
24-4-5
10-4-64

I have &c.

(Sd) [illegible]

To The Hon'ble [illegible]
&c &c &c

3 — Comm'r of the Straits Settlements
1 — Govt Solicitor with Deeds